

REMARKS

In this response, the Applicants request reconsideration in view of the above amendments and the following remarks. Applicants amend claims 5 and 20. Applicants do not add any claims or cancel any claims. Accordingly, claims 1-25 are pending in the application.

I. Claims Rejected Under 35 U.S.C. § 101

Claims 1-25 stand rejected under 35 USC § 101 as allegedly being directed towards non statutory subject matter. Applicants respectfully disagree for the following reasons.

The Examiner rejects claims 1, 5, 8, 11 and 14 as being allegedly directed to non-statutory subject matter because “the claimed invention...is in fact functional descriptive material.” Similarly, claim 20 is rejected for being “non-functional descriptive material.” It is unclear to the Applicants what test or authority the Examiner is relying upon for this rejection. The Applicants are unaware of any “functional material description” test or requirements. The method claims clearly set for a set of actions that comprise a process and the apparatus claims clearly set forth the structures and components that comprise the apparatus (e.g. an authoring device in claims). Therefore, the Applicants fail to understand how these claims fail to meet the requirements of 35 U.S.C. § 101. If the Examiner maintains this rejection of the claims, Applicants respectfully request that the Examiner clarify the authority and rationale upon which the rejection is based. Accordingly reconsideration and withdrawal of the non statutory subject matter rejection of claims 1-25 are requested.

II. Claims Rejected Under 35 U.S.C. § 102

Claims 1-25 stand rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 5,805,705 issued Gray et al., (hereinafter “Gray”). Applicants respectively disagree for the following reasons.

To establish anticipation of a claim, the Examiner must show that a single reference teaches each element of that claim. In regard to independent claim 1, this claim includes the elements of “wherein the data stream is decodable by a compliant decoder, after the *non-compliant data is replaced with compliant data.*” (emphasis added). The Examiner asserts that Gray teaches these elements of claim 1 at column 5, lines 33-35, apparently equating the replacement of non-compliant data in the data stream with the change in the decrypting key of Gray. Gray does not teach inserting a new key into a data stream. Rather, the system of Gray discloses checking a key synchronization bit (KSB) position in a standard ATM cell to determine whether a previously received decryption key should now be used for further decryption of incoming data. See column 4, lines 49-58 of Gray. Thus, Gray does not disclose inserting any information into the data stream. Gray only discloses monitoring a particular bit in the data stream to determine when to change decryption keys. Therefore, the Examiner has failed to establish that Gray teaches each of the elements of claim 1. Accordingly, reconsideration and withdrawal of the anticipation rejection of claim 1 are requested.

Claims 2-4 depend from independent claim 1 and incorporate limitations thereof. Thus, at least for the reasons mentioned above in regard to independent claim 1, these claims are not anticipated by Gray. Accordingly, reconsideration and withdrawal of the anticipation rejection of claims 2-4 are requested.

In regard to claim 5, this claim as amended, includes the elements of “replacing non-compliant data in the data stream.” As discussed above in regard to independent claim 1, Gray does not teach replacement of non-compliant data in a data stream. Accordingly, reconsideration and withdrawal of the anticipation rejection of claim 5 are requested.

In regard to claim 11, this claim includes the elements of “a consumption device to retrieve key information near each synchronization in the data stream and to replace the key information with compliant data.” As discussed above in regard to independent claim 1, Gray does not teach replacing key information with compliant data in a data stream. Accordingly, reconsideration and withdrawal of the anticipation rejection of claim 11 are requested. Claims 12 and 13 depend from independent claim 11 and incorporate the limitations thereof. Thus, for at least for the reasons mentioned above in regard to independent claim 11, these claims are not anticipated by Gray.

In regard to claim 14, this claim includes elements of “copying the first data stream to a second data stream” and “selectively inserting compliant data into the second data stream after the PES header.” The Examiner has rejected claim 14 by grouping it together with claim 1. However, the Examiner failed to recognize that claim 14 includes elements that are distinct from those found in claim 1. Thus, the Examiner failed to even allege that Gray teaches these elements of claim 14. Applicants have reviewed Gray and have been unable to discern any part therein that teaches copying a first data into a second data stream or selectively inserting compliant data into a second data stream after a PES header. Thus, the Examiner failed to establish that Gray teaches each of the elements of claim 14. Accordingly, reconsideration and withdrawal of the anticipated rejection of claim 14 are requested.

Claims 15-19 depend from independent claim 14 and incorporate the limitations thereof. Thus, at least for the reasons mentioned above in regard to independent claim 14, these claims are not anticipated by Gray. Accordingly, reconsideration and withdrawal of the anticipated rejection of these claims are requested.

In regard to claim 20, this claim, as amended, includes the elements of “key information separate from and associated with the header.” The Examiner relies on the key synchronization bit of Gray as teaching this element of claim 20. However, the key synchronization bit is found within the header and is not separate from the header of Gray. See Gray, column 4, lines 49-52, “a single bit position in one of the five header bytes of a standard ATM cell is defined as a key synchronization bit (KSB).” Thus, Gray does not teach the elements of claim 20. Accordingly, reconsideration and withdrawal of the anticipation rejection of claim 20 are requested.

In regard to claims 21-25, these claims depend from independent claim 20 and incorporate the limitations thereof. Thus, for the reasons mentioned above in regard to independent claim 20 these claims are not anticipated by Gray. Accordingly, reconsideration and withdrawal of the anticipation rejection of claims 21-25 are requested.

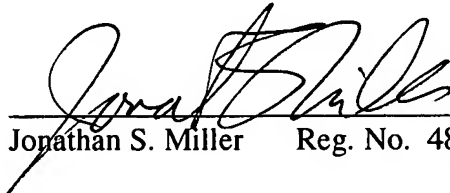
CONCLUSION

In view of the foregoing, it is believed that all claims now pending, namely claims 1-25, patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207 3800.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

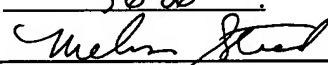
Dated: 3/6, 2006


Jonathan S. Miller Reg. No. 48,534

12400 Wilshire Boulevard, Seventh Floor
Los Angeles, California 90025
(310) 207-3800

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